

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

160305

DATE: FEB 17 1981

SUBJECT: Borne Chemical Company, Elizabeth, New Jersey

FROM: Coles H. Phinizy, Jr., Attorney  
Water Enforcement BranchTO: Bruce R. Adler, Attorney  
General Enforcement BranchTHRU: Stephen A. Dvorkin, Chief  
General Enforcement Branch

On December 17, 1980, I attended an inspection of the above-referenced facility. The inspection had been scheduled to determine the facility's compliance with the SPCC regulations and to determine the veracity of previous statements made on Borne's behalf in a previous SPCC proceeding. The inspection was conducted by Messrs. Dave White and Kerry Webster of Ecology and Environment.

An informal meeting was held upon our arrival at the plant. Attending besides myself and Messrs. White and Webster were:

Mr. A.J. Corona, General Manager of Borne, (201) 351-1717;  
Mr. Philip Cole, NJDEP-Trenton, (609) 292-5560;  
Louis Markowitz, Esq., Borne's attorney, Epstein, Epstein, Brown, Bosek and Turndorf, Elizabeth, N.J., (201) 354-8111;  
Mr. Stuart Patrick, Borne's President; as well as another Borne employee whose name I did not catch.

Messrs. Corona and Patrick discussed the plant's history. It was stated that the present management took over the plant in January of 1979. Mr. Patrick stated that the previous management (a Mr. Edward M. Kaye was Chairman of the Board) had paid no attention to the plant or the SPCC Plan(s) and had brought "tenants" onto the property, people in the "waste disposal business," including Coastal Services, Inc. It was stated that these tenants utilized the site as a waste way-station, "storing" wastes prior to their ultimate disposal. It was stated that this work was very casual: the tenants poured wastes into the large storage tanks inside the so-called "diked area", may have buried or dumped wastes elsewhere on the site, and stored drums containing waste on the site. Apparently, Mr. Kaye saw "oil" being dumped into the so-called "diked area" and so stated in his affidavit filed in the present management's legal action in State court against him.

Kaye had apparently also sued Coastal Services and terminated all contracts therewith: As I understand it, there are at least these outstanding lawsuits:

Borne v. Coastal  
Borne v. "Lehans" (sp?) Sales"  
 (a tenant)  
Borne v. Kaye

and Borne has threatened suit against "Rolfite," another tenant. (Another tenant named "Atlantic" also took some samples of the wastes on site.) Borne's suit against Kaye was said to be, inter alia, to get him to remove drums full of "magnesium oxide tailings." (Apparently, one of Borne's operations involves mixing magnesium oxide with oil for sale to utilities.)

It was stated that Borne has "settled" one lawsuit against Kaye for \$60,000.

It was stated that in March of 1979, Kaye hired "A Line" and "Clean Ventures" to "clean up the mess" and was billed \$70,000 for the work. Borne apparently has the capacity to store 500,000 gallons of liquid, which capacity may or may not be totally utilized today.

It was stated that in April of 1980, the NJDEP, through individuals named Steve Piko and Robert Winter, issued a "notice of prosecution" against Borne because of the liquid wastes in the pond in the so-called "diked area," and subpoenaed Borne's records.

It was stated that the NJDEP "tested" some wastes for PCB's and found none. Apparently, Borne's own lab. also tested; some tanks had PCB's; others did not, but the levels are under 50 ppm. It was stated that Borne has done other sampling and monitoring (the results of some of which are attached, n.b. the possibility of PCB concentration over 50 ppm) at the request of potential disposers of the wastes so that contracts could be entered into for disposal, but Borne has had no response indicating interest in the work.

The so-called "diked area" was stated to be full of "a spill" of "oily water." The tanks were said to contain "600,000 gallons of waste and water" and Borne is unsure of the condition of the tank floors. It was stated that Borne could not afford to clean up the so-called "diked area" and then have "another spill" into said area.

It was stated that a Long Island subsidiary "bled the company dry" and Borne "went into Chapter 11" on February 15, 1980 to save its Elizabeth operation. The latter is apparently profitable because of military contracts; Borne apparently blends "additives" with "virgin oil" to produce at least certain of its products. ✓

The present management was said to have thrown the tenants off the property, and installed lighting and a fence and guard station so that no more waste could be brought in. Borne was said to have removed "a couple of thousand drums" of waste already. Borne was said to intend to clean out the so-called "diked area"

and the tanks, as soon as a contract therefor could be arranged.

It was said that a "network of underground pipes" exists, which had experienced ruptures in the past but was not presently in use. (One of the SPCC "plans" indicates that all pipes are aboveground.)

It was indicated that one Kevin Goshlin (sp?) of the NJDEP (292-9877) has a list of the materials stored in the tanks.

The above is necessarily a sketchy transcription of my notes in stream-of-consciousness form because of the circumstances under which the "information" was conveyed. As I indicated at the meeting, we were at the plant to inspect for compliance with SPCC regulations and to determine the possible culpability (including criminal liability) of the corporation for possibly false statements made on its behalf relative to a prior SPCC proceeding. (I had previously indicated the criminal possibilities in a phone conversation with Borne's attorney.) Instead, we were deluged with the above "facts" which seem to point in another direction.

It was my impression that Borne's property -- the tanks, the so-called "diked area" and the grounds -- has been utilized as a casual public waste dump for several years. Borne representatives admitted that they did not know what was on the property and were "not curious."

The plant is indeed surrounded by a chain-link fence. However, one portion of the fence -- on the northern side of the plant by the neighboring Archer-Daniels-Midland plant and next to the so-called "diked area" -- is down, apparently having been bulldozed over. This leads to the impression that someone may have backed up and dumped material into this area. The so-called "diked area" contains a pond of liquid and the several large tanks. The "dike" is in particularly poor shape in this area; my impression is that any tank rupture would lead to a spill along the property line and directly to the Arthur Kill. On this same side of the plant, between the so-called "diked area" and the Kill, an old aerial photo on the wall in Borne's office shows a tank or lagoon in an area which now has been filled in. This area may contain buried wastes. There are several areas containing 1-200 drums each, some of which are leaking and/or bulging. There is a pond between the elevated railroad track and parking lot which may or may not contain waste material. The long narrow warehouse along the Bridge abutment contains many drums and one of the inspectors indicated that he detected a "pesticide odor" therein on inspection.

In sum, the Borne plant -- symbolically 1/4 mile from Chemical Control -- has all the earmarks of a potentially dangerous, "abandoned" hazardous waste site. The present management, while admittedly "not curious" as to what's there, is seemingly interested in cleaning up, but has had no success in contracting therefor. The company does seem to be in economic trouble. On the other hand, the nearly total lack of knowledge as to what's there is troublesome, as is the company's lack of progress, as is the proximity of the Arthur Kill, public roads, and other factories.

I am therefore referring this matter to you for further action as may be appropriate.

Encls.

cc: R. G. Tisch, w/o encls.  
K. Webster/D. White, w/o encls.